



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 11, 1996

Mr. Jason C. Marshall
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1900 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

OR96-1855

Dear Mr. Marshall:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101105.

The City of Coppel (the "city"), which you represent, received a request for the internal affairs files of several employees of the city's police department. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. You state that you have released "information pertaining to the names of the complainant and the officers who are the subject of complaints, and a summary of the final disposition of an investigation."¹ You have submitted samples of the requested information. We have considered the exception you claim and reviewed the submitted samples.²

Much of the requested information has been the subject of a previous request, which we addressed in Open Records Letter No. 96-0924 (1996). We enclose a copy of that letter ruling for your information. We assume that the city has complied with that ruling, as it was issued on June 12, 1996. To the extent that the requested information

¹We note that the requestor has submitted correspondence to this office in which he contends that this specific information has not been made available to him. We assume that, based on your representation, the city has released or will release this information to the requestor.

²In reaching our conclusion here, we assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

is duplicative of that addressed in Open Records Letter No. 96-0924 (1996), and the city has released the requested information to the requestor, the city may not withhold that information now, absent different circumstances or the existence of newly created information, neither of which appears to apply here. See Gov't Code § 552.007 (prohibiting selective disclosure of requested information).

To the extent that the requested records are different from those addressed in Open Records Letter No. 96-0924, we address your claimed exception. Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; see *Holmes v. Morales*, 924 S.W.2d 920 (Tex. 1996). However, in the sample documents submitted to this office for review, the administrative action took place after a criminal prosecution in another jurisdiction. Where no criminal investigation or prosecution results from an internal police investigation of a police officer's conduct, section 552.108 is inapplicable. See *Morales v. Ellen*, 840 S.W.2d 519, 526 (Tex. App. --El Paso 1992, writ denied). As the internal police investigation here took place separate and apart from a criminal prosecution, we conclude that the department may not withhold the requested information based on section 552.108.

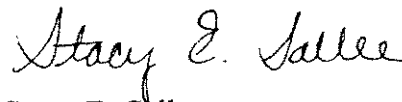
Section 552.117 of the Government Code excepts from public disclosure information relating to the home address, home telephone number, and social security number of a current or former government employee or official, as well as information revealing whether that employee or official has family members. This section also applies to "peace officers" as that term is defined in article 2.12 of the Code of Criminal Procedure. For "peace officers," the protection of section 552.117 is automatic; in other words, the peace officer need not make an election under section 552.024 of the Government Code. There is information here that falls within the protection of section 552.117 that the city must withhold. The city may not withhold the remainder of the requested information.³

³The requestor has submitted correspondence in which he made other requests to the city. The city apparently attempted to clarify what the requestor was seeking. We note that numerous opinions of this office have addressed situations in which a governmental body has received either an "overbroad" written request for information or a written request for information that the governmental body is unable to identify. Open Records Decision No. 561 (1990) at 8-9 states:

We have stated that a governmental body must make a good faith effort to relate a request to information held by it. Open Records Decision No. 87 (1975). It is nevertheless proper for a governmental body to require a requestor to identify the records sought. Open Records Decision Nos. 304 (1982); 23 (1974). For example, where governmental bodies have been presented with broad requests for information rather than specific records we have stated that the governmental body may advise the requestor of the types of information available so that he may properly narrow his request. Open Records Decision No. 31 (1974).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/ch

Ref.: ID# 101105

Enclosures: Open Records Letter No. 96-0924 (1996)
Submitted documents

cc: Mr. Doyle Calfey
449 Harris C 103
Coppell, Texas 75019
(w/Open Records Letter No. 96-0924 (1996); w/o submitted documents)

In response to requests for information, the city must make a good-faith effort to relate the request to information in the city's possession and must help the requestor to clarify his request by advising him of the types of information available. See Gov't Code § 552.222(b); see also Open Records Decision No. 561 (1990) at 8.